

Remarks

The foregoing amendment is hereby submitted for the Examiner's consideration to comply with the objections or requirement of form expressly set forth in the Office Action, and to better place the present application in condition for allowance, in accordance with 37 C.F.R. § 1.116(a).

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 9, 11, 12, and 20-33 are pending in the application, with 9, 20, and 31 being the independent claims. Claim 33 has been withdrawn by the Examiner as being directed to an invention that is patentably distinct from the invention originally claimed. Claims 20, 23-29, and 31 are sought to be amended. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Provisional Double Patenting Rejection

In the Office Action, the Examiner provisionally rejected claims 20-32 under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 11-20 and 22-41 of co-pending U.S. Patent Application No. 09/722,497 (herein "the '497 application"). See Paper No. 16 at pages 2-3.

Since this rejection is provisional, Applicants elect not to contest the propriety of this rejection at this time, but reserve all rights to traverse this rejection at a future date. However, in light of the foregoing amendment and other arguments herein, should the

Examiner find that this “provisional” double patenting rejection is the only rejection remaining in the instant application (and, presumably, the ‘497 application and the aforementioned claims are still pending), Applicants respectfully request the Examiner to withdraw the rejection, and permit the application to issue as a patent in accordance with MPEP § 804, subsection I.B.

Rejections under 35 U.S.C. § 112

In the Office Action, the Examiner rejects claims 20-32 under the second paragraph of 35 U.S.C. § 112 for allegedly being indefinite. The Examiner asserts that the terms “ligand-binding portion of the phospholamban cytosolic domain” and “computational binds” render the claims indefinite. See Paper No. 16 at pages 3-4.

Although Applicants respectfully disagree with the Examiner’s statements, Applicants consider these rejections to no longer be valid and/or have been rendered moot by the foregoing amendment. For example, independent claims 20 and 31 have been amended to cite, inter alia:

(b) creating a three dimensional model of a complex of the cyclic peptide bound to the phospholamban cytosolic domain of phospholamban or a **portion of the phospholamban cytosolic domain that allows binding of the phospholamban deactivator to phospholamban...**

Support for this amendment can be found throughout the Specification and Drawings, especially at page 9, lines 19-21, and page 10, lines 26-31. As described in the

Specification, the present invention teaches techniques and methodologies for providing a “structure of the PLB cytosolic domain or **portion thereof** in a conformation that allows binding of a PLB deactivator”. Hence a “ligand-binding portion” is not necessarily synonymous with a “ligand-bind site.” As described throughout the Specification, the “portion..that allows binding of a PLB deactivator” can include any of, for example, the binding sites (S1-S4) disclosed a page 7, lines 4-27, or the thirty-six amino acids disclosed by SEQ ID NO:9.

Applicants have amended the claims to remove the expression “computationally binds” to address the Examiner’s concerns.

Therefore, Applicants respectfully request reconsideration and withdrawal of the Examiner’s rejections of the aforesaid claims, and allowance thereof.

Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

A handwritten signature in black ink, appearing to read "K. Patterson", with a large, sweeping flourish extending to the right.

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